BEFORE THE

FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON, D.C.

In the Matter of	)	
	)	
Broadcast Localism	)	MB Docket No. 04-233
	)	

To: The Commission

COMMENTS ON NOTICE OF PROPOSED RULE MAKING
BROADCAST LOCALISM

Starboard, Inc., (Starboard) in compliance with Paragraph 147 of the above-referenced Rule Making proceeding, and in compliance with Section 1.415 of the Commission's Rules, hereby respectfully submits its comments in connection with the above-referenced proceeding.

The Commission addressed a number of issues in the above-referenced Rule Making on which Starboard wishes to comment.

1. Communications Between Licensees and their Communities. The Commission noted that it has created an Enhanced Disclosure form for television broadcasters to report to the FCC how they determine the needs and interests of their communities and to report on how the broadcasters fulfill those needs and interests.[1] The Commission feels that current disclosure by radio broadcasters is similarly inadequate in determining or addressing the needs of their audience, and has, in the *Digital Audio FNPRM*[2] inquired as to whether radio licensees should also be subject to enhanced disclosure requirements.[3]

[1]*See Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations,* Report and Order (adopted Nov. 27, 2007) ("*Enhanced Disclosure Order").*

[2] See *Enhanced Disclosure Order; Digital Audio Broadcasting Systems and Their Impact on the Terrestrial Broadcast Service,* Second Report and Order, First Order on Reconsideration and Second Further Notice of Proposed Rulemaking, 22 FCC Rcd 10344, 10390 (2007) (*"Digital Audio FNPRM").*

[3] Starboard intends to file these same comments in the *Digital Audio FRPRM* proceeding, but since this issue was raised in this proceeding, will also address them here.

1.1. Enhanced Disclosure Reporting.

Starboard disagrees that enhanced disclosure requirements are necessary to ensure that broadcasters pay attention to the needs and interests of its community of license. A non-profit 501 (c) 3, Starboard is a small broadcaster, owning and operating only 16 stations nationwide. 14 of our 16 stations employ fewer than 5 associates to staff and manage its station affairs, and the additional paperwork burden associated with keeping and submitting such enhanced disclosure forms to the FCC could create a substantial financial burden. This is likely true of other small broadcasters who own only one or two stations, or who employ minimal staff at their stations.

Certainly, in the case of all Starboard's stations, management at the station is in close contact with local Catholic parishes and dioceses, as well as municipal elements of the community of license, with local business and local organizations of every variety, who make their needs known to the station management. Starboard's policy is to respond to accommodate most, if not all of the community's demands for news items, community announcements, and promotion of community events, and to address community issues to the extent that it is able within its program production capabilities. The current requirement of maintaining a quarterly programs/issues list in the Stations' public inspection files already poses a paperwork burden on all 16 Starboard stations and any increase in that paperwork compliance burden would likely require that additional part time or full-time employees be employed to handle this work. In the case of some small broadcasters, increasing their staff by only one employee would bump those broadcasters into other additional compliance and/or reporting burdens – significantly, small broadcasters could expect an increase in EEO compliance and reporting requirements, if staff increased to five or more full-time persons.

1.1.1. Exemption for Small Stations.

There must be some exemption, or only a nominal reporting requirement for small broadcasters, e.g., stations whose employment units number fewer than 5 full time employees. The issues/programs lists that are already required to be maintained could be identified as available for public inspection on a broadcaster's website, or on the website of the state broadcaster's association; alternatively the latest quarterly list could be posted on a broadcaster's website, or on the website of the relevant state broadcaster association.

1.1.2. Specific Form for Issues/Program Lists.

If the Commission's concern is that the existing program/issues list requirement produces spotty or inadequate results, the Commission could create a specific form for issues/programs lists to be kept by small station owners. The Commission could require such forms to be filed with the FCC once a year or biennially with the station's ownership report with the Commission, so the FCC has that information on file for reference at the time of a station's renewal application, in the event of any complaints that may be filed against a station. This would not increase the current paperwork burden on broadcasters; rather, it would eliminate any uncertainty of what needs to be provided in such issues/programs lists, and would provide a basis for reference concerning a broadcaster's community issue involvement over the renewal term.

2. Community Advisory Boards. Starboard believes that the use of community advisory boards is an inconvenient, burdensome and cumbersome means of informing a station's programming decisions, especially for small station owners. Some minimal level of station ownership in a market, e.g., more than two or three stations, should be made a threshold requirement for this requirement. Otherwise, an item in the above-suggested form for issues programs report listing the community representatives consulted by the station licensee should be enough to ensure that consultation takes place on a periodic basis. Such consultations also need not be in person; phone consultations or e-mail consultations should suffice. Convening permanent advisory board also may not be feasible, even in those cases where advisory boards are formed. Membership in such boards, even if made up of municipal or governmental employees, would be voluntary, and would likely turn over rapidly. Should licensees be made responsible for the makeup of such boards? And if responsible, what mechanisms would be available to broadcasters to require attendance and participation? What enforcement mechanisms would the Commission employ in the event that such boards do not meet their responsibilities to advise station licensees, or if broadcasters are unable to force participation?

Such advisory boards would also place limits on the Licensee's First Amendment speech rights in determining its own programming, especially if board suggestions are rejected in whole or in part, and if such rejections result in renewal challenges or complaints to the Commission. Pertinent to this point is the fact that, as a 501 (c) (3) operation Starboard is committed to serving the Catholic Church, and the specific interests of its Catholic audience. Starboard already convenes advisory boards on a regular basis in all our local markets. These boards are comprised of local religious and community leaders alike who make the interest of the Catholic community paramount in their consultations, but who also consider the interests of the community at large, from a Catholic perspective. At a minimum, special exemptions with regard to Community Advisory Boards should be afforded to non-profit broadcast stations or station groups that devote significant programming to the special interests to which they are committed, in the interest of improving the community. Such is the case, for example, with Starboard's Chicago stations which provide the Archdiocese of Chicago and Catholic Charities of Chicago, institutions that serve the community as a whole, with significant access to our airwaves on a regular basis.

3. Remote Station Operation. Starboard disagrees that remote operation adversely affects a licensee's ability to determine and serve local needs, even in cases of emergency. Requiring that licensees maintain a physical presence at each radio broadcasting facility during all hours of operation would be a substantial expense for all licensees, and in the case of small broadcasters, an expense that many could not successfully bear and remain financially viable. In Starboard's case, such a requirement would force it to take its stations off the air at night, since it cannot afford to maintain additional staff to man its stations after 10 PM. In cases like ours, this requirement would result in less, nor more, emergency service information available to the public, and in less programming choices for the public.

Nor would requiring a physical presence at every station result in more local programming. It is not the employee physically present who makes decisions concerning information of a local nature to be provided to the community of license; the licensee makes such programming decisions. Having someone physically present would make no difference in the nature of that programming. In the event of severe weather and/or local emergencies, most station management, owners and staff put in the time necessary at the station's facility to get through the crisis; a requirement of physical presence during non-emergency periods would be superfluous. Moreover, it must be noted that information of a critical and life-saving nature is programmed through the EAS system by emergency entities, local state and federal. In the case of emergencies outside regular business hours, Starboard has taken the responsible step of integrating an automated override system which defers to stations that originate such emergency signals. These stations may be in a position to determine and edit the information that should be relayed, not the stations that are required to forego their regular programming in favor of the emergency programming. Requiring each station to add its own specific information to the available emergency information available through the EAS system may result in incorrect and confusing information – the opposite of the desired result through use of the EAS system.

Finally, any requirement that stations be manned year-round 'just in case' is ridiculous and unnecessary. Allowing remote operation is logical and desirable in today's technology-driven society, and results in more reliable service to the public, rather than less.

4. Main Studio Rule. The Commission's proposal to revert to its pre-1987 main studio rule is unnecessary, and would be burdensome to those broadcasters who have relocated their main studios outside the community of license. In today's mobile and communications-oriented society, such a requirement is not needed to ensure the ability of the public to access information at any radio station. The public can effectively access and interact with stations by phone, e-mail, fax, and through the station's normal procedures for determining the needs and interests of the community. The areas in which station main studios are presently allowed to locate are sufficiently proximate to their communities to allow the public to maintain contact with the station, and are not so far as to preclude in-person visits. A requirement to again relocate back inside the community boundaries would divert valuable programming dollars to relocation efforts, and would preclude, rather than result in more locally originated programming. Interaction between a licensee and the community would occur more effectively through contact between a licensee and community representatives. The changes suggested above in the programs/issues requirements would more effectively address the need for such interaction. Requiring stations to relocate their main studios, while possibly increasing the station's physical 'visibility' in the community, would do nothing to increase the desired interaction. A case-in-point would be Starboard's station in the Madison, Wisconsin market. While WHFA-AM is licensed to Poynette, Wisconsin with a population of approximately 2,200 people, the studios are centrally located in Madison, Wisconsin and in closer proximity to the estimated 275,000 listeners we serve. Moving our studios to Poynette would prevent us from effectively working with the vast majority of our listeners.

5. Conclusion. Starboard does not believe that the changes addressed above are in the interest of broadcasters overall. They certainly are not in the interests of smaller broadcasters, or for any station with a small staff. The changes suggested by the Commission would entail additional burdensome paperwork, additional expense and/or both, none of which Starboard and most small broadcasters can afford in the present recession economy. The changes suggested may force some small broadcasters to curtail programming, or worse, force some off the air completely. Surely, this is not what the Commission has in mind.

The proposal to add enhanced disclosure should be changed to require broadcasters to prepare and keep in their public inspection files public issues/programs lists pursuant to a new form designed by the FCC which comports with the current programs issues list requirements, and to file copies of such forms with the FCC together with a broadcaster's biennial ownership report. Requiring use of a standard form would regularize the information maintained by the stations, and would provide uniform information to the FCC at renewal time. The enhanced disclosure form currently required of television broadcasters is too detailed and inappropriate for radio, and would create too much of a paperwork burden on small broadcasters. Additionally, small broadcasters, or stations with small employment units should be exempted from anything other than the current reporting requirement. The other changes suggested by the Commission either should be adjusted to exempt small broadcasters and/or small stations, or should not be implemented in the way suggested by the Commission.

Respectfully submitted,

STARBOARD MEDIA FOUNDATION, INC.

Mary Patricia Leurck, CEO